

## § 179.208

## 5 CFR Ch. I (1–15 Edition)

against the debtor as provided by 5 CFR 550.1104(d)(11); and

(3) The terms of any repayment schedules, if applicable.

(j) *Failure to appear.* In the absence of good cause shown (e.g., illness), an employee who fails to appear at a hearing shall be deemed, for the purpose of this subpart, to admit the existence and amount of the debt as described in the notice of intent. If the representative of the creditor agency fails to appear, the hearing official shall proceed with the hearing as scheduled and make his/her determination based upon the oral testimony presented and the documentary evidence submitted by both parties. With the agreement of both parties, the hearing official shall schedule a new hearing date. Both parties shall be given reasonable notice of the time and place of the new hearing.

### § 179.208 Certification.

(a) OPM salary offset coordinator shall provide a certification to the paying agency in all cases where:

(1) The hearing official determines that a debt exists;

(2) The employee fails to contest the existence and amount of the debt by failing to request a hearing; or

(3) The employee fails to contest the existence of the debt by failing to appear at a hearing.

(b) The certification must be in writing and must state:

(1) That the employee owes the debt;

(2) The amount and basis of the debt;

(3) The date the Government's right to collect the debt first accrued;

(4) That the Office's regulations have been approved by OPM pursuant to 5 CFR part 550, subpart K;

(5) The date on which payment(s) is due;

(6) If the collection is to be made in installments, the number of installments to be collected, the amount of each installment or percentage of disposable pay, and the commencement date of the first installment, if a date other than the next officially established pay period is required; and

(7) The date(s) of any action(s) taken under 5 U.S.C. 5514(b).

### § 179.209 Voluntary repayment agreement as alternative to salary offset.

(a)(1) In response to a notice of intent, an employee may propose to repay the debt by making voluntary installment payments as an alternative to salary offset. An employee who wishes to repay a debt without salary offset shall submit in writing a proposed agreement to repay the debt. The proposal shall admit the existence of the debt, and the agreement must be in such form that it is legally enforceable. The agreement must:

(i) Be in writing;

(ii) Be signed by both the employee and the creditor agency;

(iii) Specify all the terms of the arrangement for payment; and

(iv) Contain a provision accelerating the debt in the event of default by the debtor, but such an increase may not result in a deduction that exceeds 15 percent of the employee's disposable pay unless the employee has agreed in writing to deduction of a greater amount (5 CFR 550.1104(i)).

(2) Any proposal under paragraph (a) of this section must be received by the official designated in the notice of intent within 30 calendar days after receipt of the notice.

(b) The creditor agency will review a timely and properly submitted repayment proposal by the employee debtor and notify the employee whether the proposed written agreement for repayment is acceptable. It is within the creditor agency's discretion to accept a repayment agreement instead of proceeding by offset.

(c) If the creditor agency decides that the proposed repayment agreement is unacceptable, the employee will have 15 days from the date he or she received notice of that decision to file a petition for a hearing or a special review as provided by § 179.210.

(d) If the creditor agency decides that the proposed repayment agreement is acceptable, the alternative arrangement must be in writing, signed by both the employee and the creditor agency designee and meet the other requirements of this section for a voluntary repayment agreement.